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AMENDED IN SENATE JULY 1, 2003

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CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1061

Introduced by Assembly Member Firebaugh

February 20, 2003

An act to amend Sections 10200, 10201, and 10205 of the Unemployment Insurance Code, relating to unemployment insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 1061, as amended, Firebaugh. Unemployment insurance: Employment Training Panel: small businesses.

Existing law provides for the establishment of an employment training program and the Employment Training Panel in the Employment Development Department. Existing law requires the panel, among other duties, to establish a 3-year plan that is updated annually, as provided, to maintain a system to continuously monitor economic and other data required under the plan, and to report annually to the Legislature on projects operating during the previous state fiscal year.

This bill would additionally require the panel to publish a list of training projects the panel funded in high unemployment areas and a

description of the policies and procedures the panel used to designate geographic regions and municipalities as high unemployment areas and to report to the Legislature regarding strategies identified through ~~demonstration~~ pilot *demonstration* projects to increase the access of small businesses to panel programs, as provided.

Existing law requires that each 3-year plan include, among other things, the panel's goals and operational objectives for meeting the needs of small business employers.

This bill would require that those goals and objectives include strategies, which may include *pilot demonstration* ~~pilot~~ projects, to enable the panel to increase small-business² *businesses'* access to the Employment Training Panel program and services. This bill would also make certain findings and declarations related to the operation of the Employment Training Panel and allocation of its funds.

This bill would also make certain findings and declarations regarding the new federal requirements imposed on aerospace and defense prime contractors. This bill would also ~~require, until January 1, 2007, the Employment Training Panel to initiate an aerospace and defense industry supplier improvement pilot project~~ *make a finding and declaration that it is the intent of the Legislature to request the Employment Training Panel to continue current efforts to assist aerospace and defense suppliers*, as provided.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) According to a November 1, 2001, report, issued by the
- 4 California Research Bureau entitled "California's Job Training,
- 5 Employment and Vocational Education Programs," millions of
- 6 California's working adults need to upgrade their educational and
- 7 work skills in order to secure employment at a living wage.
- 8 (b) More than 2.5 million California workers, or nearly one in
- 9 five adults in the workplace, lack a high school diploma.
- 10 (c) Assisting workers in enhancing their skills and in qualifying
- 11 for high paid employment is critical if the state is to maintain a
- 12 competitive advantage in today's global economy.



1 (d) The Employment Training Panel, the state's major job
2 training program for employed workers, funds a variety of
3 workforce training services, including vocational training,
4 industry-specific skills training, job related literacy training, and
5 retraining of workers.

6 (e) According to a two-year study conducted in 1999 and 2000
7 by California State University, Northridge, Employment Training
8 Panel-sponsored training increased worker earnings, reduced
9 unemployment, increased growth of California companies, and
10 stimulated economic expansion in the state. This study also found
11 that firms participating in the panel's single employer contracts
12 have increased wages by approximately 25 percent and
13 experienced a 15-percent increase in job growth.

14 (f) The Employment Training Panel has established a Small
15 Business Pilot Project designed to target companies who do not
16 have access to the panel through traditional funding processes. The
17 Small Business Pilot Project is designed to serve small firms.

18 (g) According to the panel's annual 2001–02 report, 18 percent
19 of all retrainees and 65 percent of all new hires were employed by
20 firms with 100 or fewer employees, and 36 percent of the panel's
21 total funds were used to train workers in small businesses
22 employing 100 or fewer workers.

23 (h) The Employment Training Panel is statutorily required to
24 fund only certain projects, including projects that foster creation
25 of high-wage, high-skilled jobs in a manufacturing industry and
26 other industries threatened by out-of-state competition.

27 (i) The Los Angeles County Economic Development
28 Corporation's Semiannual Economic Forecast and Industry
29 Outlook for the five county Los Angeles region cited high growth
30 in regional aerospace and defense industries as a result of increased
31 federal defense spending and homeland security efforts. The
32 corporation's report also cited significant competition from other
33 states for federal aerospace and defense contracts.

34 SEC. 2. It is the intent of the Legislature to do all of the
35 following:

36 (a) Enhance access to the funds and services of the panel for
37 California firms employing 100 or fewer workers.

38 (b) Authorize the Employment Training Panel to initiate
39 ~~demonstration-pilot~~ *pilot demonstration* projects to identify new
40 strategies to increase small firms' access to Employment Training

1 Panel programs and services. Strategies may include, but not be
2 limited to, recommendations for improved small business
3 outreach and a streamlined process for application,
4 administration, and monitoring of contracts funded by the
5 Employment Training Panel.

6 (c) Require the Employment Training Panel to identify in its
7 annual report, required by subdivision (a) of Section 10205 of the
8 Unemployment Insurance Code, the pilot projects that were
9 established in accordance with subdivision (b) and to describe the
10 strategies that were identified through these projects to increase
11 access by small businesses to Employment Training Panel training
12 contracts.

13 SEC. 3. Section 10200 of the Unemployment Insurance Code
14 is amended to read:

15 10200. The Legislature finds and declares the following:

16 (a) California's economy is being challenged by competition
17 from other states and overseas. In order to meet this challenge,
18 California's employers, workers, labor organizations, and
19 government need to invest in a skilled and productive workforce,
20 and in developing the skills of frontline workers. For purposes of
21 this section, "frontline worker" means a worker who directly
22 produces or delivers goods or services.

23 The purpose of this chapter is to establish a strategically
24 designed employment training program to promote a healthy labor
25 market in a growing, competitive economy that shall fund only
26 projects that meet the following criteria:

27 (1) Foster creation of high-wage, high-skilled jobs, or foster
28 retention of high-wage, high-skilled jobs in manufacturing and
29 other industries that are threatened by out-of-state and global
30 competition, including, but not limited to, those industries in
31 which targeted training resources for California's small and
32 medium-sized business suppliers will increase the state's
33 competitiveness to secure federal, private sector, and other
34 nonstate funds. Provide for retraining contracts in companies that
35 make a monetary or in-kind contribution to the funded training
36 enhancements.

37 (2) Encourage industry-based investment in human resources
38 development that promotes the competitiveness of California
39 industry through productivity and product quality enhancements.

1 (3) Result in secure jobs for those who successfully complete
2 training. All training shall be customized to the specific
3 requirements of one or more employers or a discrete industry and
4 shall include general skills that trainees can use in the future.

5 (4) Supplement, rather than displace, funds available through
6 existing programs conducted by employers and
7 government-funded training programs, such as the Workforce
8 Investment Act of 1998, the Carl D. Perkins Vocational Education
9 Act, CalWORKs, the Enterprise Zone Act, and the Stewart B.
10 McKinney Homeless Assistance Act, the California Community
11 Colleges Economic Development Program, or apportionment
12 funds allocated to the community colleges, regional occupational
13 centers and programs, or other local educational agencies. In
14 addition, it is further the intention of the Legislature that programs
15 developed pursuant to this chapter shall not replace, parallel,
16 supplant, compete with, or duplicate in any way already existing
17 approved apprenticeship programs.

18 (b) The Employment Training Panel, in funding projects that
19 meet the requirements of subdivision (a), shall give funding
20 priority to those projects that best meet the following goals:

21 (1) Result in the growth of the California economy by
22 stimulating exports from the state, and the production of goods and
23 services that would otherwise be imported from outside the state.

24 (2) Train new employees of firms locating or expanding in the
25 state that provide high-skilled, high-wage jobs and are committed
26 to an ongoing investment in the training of frontline workers.

27 (3) Develop workers with skills that prepare them for the
28 challenges of a high performance workplace of the future.

29 (4) Train workers who have been displaced, have received
30 notification of impending layoff, or are subject to displacement,
31 because of a plant closure, workforce reduction, changes in
32 technology, or significantly increasing levels of international and
33 out-of-state competition.

34 (5) Are jointly developed by business management and worker
35 representatives.

36 (6) Develop career ladders for workers.

37 (7) Promote the retention and expansion of the state's
38 manufacturing workforce.

39 (c) The program established through this chapter is to be
40 coordinated with all existing employment training programs and

1 economic development programs, including, but not limited to,
2 programs such as the Workforce Investment Act of 1998, the
3 California Community Colleges, the regional occupational
4 programs, vocational education programs, joint
5 labor-management training programs, and related programs under
6 the Employment Development Department and the Technology,
7 Trade, and Commerce Agency.

8 SEC. 4. Section 10201 of the Unemployment Insurance Code
9 is amended to read:

10 10201. As used in this chapter:

11 (a) “Department” means the Employment Development
12 Department.

13 (b) “Employer” or “eligible employer” means any employer
14 subject to Part 1 (commencing with Section 100) of Division 1,
15 except any public entity, or any nonprofit organization which has
16 elected an alternate method of financing its liability for
17 unemployment insurance compensation benefits pursuant to
18 Article 5 (commencing with Section 801), or Article 6
19 (commencing with Section 821) of Chapter 3.

20 Any public entity or nonprofit organization that has elected an
21 alternate method of financing its liability for unemployment
22 insurance compensation benefits pursuant to Article 5
23 (commencing with Section 801), or Article 6 (commencing with
24 Section 821) of Chapter 3, shall be deemed to be an employer only
25 for purposes of placement of new hire trainees who received
26 training as an incidental part of a training project designed to meet
27 the needs of one or more private sector employers.

28 (c) “Eligible participant” means any person who, prior to
29 beginning training or employment pursuant to this chapter, is any
30 of the following:

31 (1) Unemployed and has established an unemployment
32 insurance claim in this state, or has exhausted eligibility for
33 unemployment insurance benefits from this state within the
34 previous 24 months.

35 (2) Employed for a minimum of 90 days by his or her employer,
36 or if employed for less than 90 days, met the conditions of
37 paragraph (1) at the time of hire, had received a notice of layoff
38 from the prior employer, or was employed by an employer for a
39 period of not less than 90 days during the 180-day period prior to
40 the employee’s current employment.

1 (d) “Executive director” means the executive director
2 appointed pursuant to Section 10202.

3 (e) “Fund” means the Employment Training Fund created by
4 Section 1610.

5 (f) “Job” means employment on a basis customarily
6 considered full time for the occupation and industry. The
7 employment shall have definite career potential and a substantial
8 likelihood of providing long-term job security. Furthermore, the
9 employment shall provide earnings, upon completion of the
10 employment requirement specified in subdivision (f) of Section
11 10209, equal to 50 percent, in the case of new hire training, or 60
12 percent, in the case of retraining, of the state or regional average
13 hourly wage. However, in no case shall the employment result in
14 earnings of less than 45 percent of the state average hourly wage
15 for new hire training and 55 percent of the state average hourly
16 wage for retraining. The panel may consider the dollar value of
17 health benefits that are voluntarily paid for by an employer when
18 computing earnings to meet the minimum wage requirements.

19 (g) “New hire training” means employment training,
20 including job-related literacy training, for persons who, at the start
21 of training, are unemployed.

22 (h) “Panel” means the Employment Training Panel created by
23 Section 10202.

24 (i) “Retraining” means employment related skill and literacy
25 training for persons who are employed and who meet the definition
26 of paragraph (2) of subdivision (c) prior to commencement of
27 training and will continue to be employed by the same employer
28 for at least 90 days following completion of training.

29 (j) “State average hourly wage” means the average weekly
30 wage paid by employers to employees covered by unemployment
31 insurance, as reported to the Employment Development
32 Department for the four calendar quarters ending June 30 of the
33 preceding calendar year, divided by 40 hours.

34 (k) “Trainee” means an eligible participant.

35 (l) “Training agency” means any private training entity or
36 local educational agency.

37 SEC. 5. Section 10205 of the Unemployment Insurance Code
38 is amended to read:

39 10205. The panel shall do all of the following:

(a) Establish a three-year plan that shall be updated annually, based on the demand of employers for trained workers, changes in the state's economy and labor markets, and continuous reviews of the effectiveness of panel training contracts. The initial three-year plan shall be submitted to the Governor and the Legislature not later than January 1, 1994. The initial update of the plan shall be submitted not later than July 1, 1994, and annual updates of the plan thereafter shall be submitted not later than July 1 of each year. In carrying out this section, the panel shall review information in the following areas:

(1) Labor market information, including the state-local labor market information program in the Employment Development Department, and economic forecasts.

(2) Evaluations of the effectiveness of training as measured by increased security of employment for workers and benefits to the California economy.

(3) The demand for training by industry, type of training, and size of employer.

(4) Changes in skills necessary to perform jobs, including changes in basic literacy skills.

(5) Changes in the demographics of the labor force and the population entering the labor market.

(6) Proposed expenditures by other agencies of federal Workforce Investment Act funds and other state and federal training and vocational education funds on eligible participants.

(b) Maintain a system to continuously monitor economic and other data required under this plan. If this data changes significantly during the life of the plan, the plan shall be amended by the panel. Each plan shall include all of the following:

(1) The panel's objectives with respect to the criteria and priorities specified in Section 10200 and the distribution of funds between new-hire training and retraining.

(2) The identification of specific industries, production and quality control techniques, and regions of the state where employment training funds would most benefit the state's economy and plans to encourage training in these areas, including specific standards and a system for expedited review of proposals that meet the standards.

(3) A system for expedited review of proposals that are substantially similar with respect to employer needs, training

1 curriculum, duration of training, and costs of training, in order to
2 encourage the development of proposals that meet the needs
3 identified in paragraph (2).

4 (4) The panel's goals, operational objectives, and strategies to
5 meet the needs of small businesses, including, but not limited to,
6 those small businesses with 100 or fewer employees. These
7 strategies proposed by the panel may include, but not be limited
8 to, pilot demonstration projects designed to identify potential
9 barriers that small businesses may experience in accessing panel
10 programs and workforce training resources, including barriers that
11 may exist within small businesses.

12 (5) The research objectives of the panel that contribute to the
13 effectiveness of this chapter in benefiting the economy of the state
14 as a whole.

15 (6) A priority list of skills that are in such short supply that
16 employers are choosing to not locate or expand their businesses in
17 the state or are importing labor in response to these skills
18 shortages.

19 (c) Solicit proposals and write contracts on the basis of
20 proposals made directly to it. Contracts for the purpose of
21 providing employment training may be written with any of the
22 following:

23 (1) An employer or group of employers.

24 (2) A training agency.

25 (3) A local workforce investment board with the approval of
26 the appropriate local elected officials in the local workforce
27 investment area.

28 (4) A grant recipient or administrative entity selected pursuant
29 to the federal Workforce Investment Act of 1998, with the
30 approval of the local workforce investment board and the
31 appropriate local elected officials.

32 These contracts shall be in the form of fixed-fee performance
33 contracts. Notwithstanding any provision of law to the contrary,
34 contracts entered into pursuant to this chapter shall not be subject
35 to competitive bidding procedures. Contracts for training may be
36 written for a period not to exceed 24 months for the purpose of
37 administration by the panel and the contracting employer or any
38 group of employers acting jointly or any training agency for the
39 purpose of providing employment training.

1 (d) Fund training projects that best meet the priorities
2 identified annually. In doing so, the panel shall seek to facilitate the
3 employment of the maximum number of eligible participants.

4 (e) Establish minimum standards for the consideration of
5 proposals, which shall include, but not be limited to, the
6 identification of employers who have been contacted by the
7 contractor and who have provided reasonable assurance that they
8 will employ successful trainees, the number of jobs available, the
9 skill requirements for the identified jobs, the projected cost per
10 person trained, hired, and retained in employment, the wages paid
11 successful trainees upon placement, and the curriculum for the
12 training. No proposal shall be considered or approved that
13 proposes training for employment covered by a collective
14 bargaining agreement unless the signatory labor organization
15 agrees in writing.

16 (f) Develop a process by which local workforce investment
17 boards may apply for marketing resources for the purpose of
18 identifying local employers that have training needs that reflect the
19 priorities of the panel. The panel may delegate its authority to
20 approve contracts for training to local workforce investment
21 boards, provided that no contract approved exceeds fifty thousand
22 dollars (\$50,000) per project without prior approval of the panel
23 and all contracts meet the provisions of this chapter and are
24 consistent with the annual priorities identified by the panel.

25 (g) Ensure the provision of adequate fiscal and accounting
26 controls for, monitoring and auditing of, and other appropriate
27 technical and administrative assistance to, projects funded by this
28 chapter.

29 (h) Provide for evaluation of projects funded by this chapter.
30 The evaluations shall assess the effectiveness of training
31 previously funded by the panel to improve job security and
32 stability for workers, and benefit participating employers and the
33 state's economy, and shall compare the wages of trainees in the
34 12-month period prior to training as well as the 12-month period
35 subsequent to completion of training, as reflected in the
36 department's unemployment insurance tax records. Individual
37 project evaluations shall contain a summary description of the
38 project, the number of persons entering training, the number of
39 persons completing training, the number of persons employed at
40 the end of the project, the number of persons still employed three

1 months after the end of the project, the wages paid, the total costs
2 of the project, and the total reimbursement received from the
3 Employment Training Fund.

4 (i) Report annually to the Legislature, by November 30, on
5 projects operating during the previous state fiscal year. These
6 annual reports shall provide separate summaries of all of the
7 following:

8 (1) Projects completed during the year, including their
9 individual and aggregate performance and cost.

10 (2) Projects not completed during the year, briefly describing
11 each project and identifying approved contract amounts by
12 contract and for this category as a whole, and identifying any
13 projects in which funds are expected to be disencumbered.

14 (3) Projects terminated prior to completion and the reasons for
15 the termination.

16 (4) A description of the amount, type, and effectiveness of
17 literacy training funded by the panel.

18 (5) Results of complete project evaluations.

19 (6) A description of pilot projects, and the strategies that were
20 identified through these projects, to increase access by small
21 businesses to panel training contracts.

22 (7) A listing of training projects that were funded in high
23 unemployment areas and a detailed description of the policies and
24 procedures that were used to designate geographic regions and
25 municipalities as high unemployment areas.

26 In addition, based upon its experience in administering job
27 training projects, the panel shall include in these reports policy
28 recommendations concerning the impact of job training and the
29 panel's program on economic development, labor-management
30 relations, employment security, and other related issues.

31 (j) Conduct ongoing reviews of panel policies with the goal of
32 developing an improved process for developing, funding, and
33 implementing panel contracts as described in this chapter.

34 (k) Expedite the processing of contracts for firms considering
35 locating or expanding businesses in the state, as determined by the
36 Technology, Trade, and Commerce Agency, in accordance with
37 the priorities for employment training programs set forth in
38 subdivision (b) of Section 10200.

39 (l) Coordinate and consult regularly with business groups and
40 labor organizations, the California Workforce Investment Board,

1 the State Department of Education, the office of the Chancellor of
2 the California Community Colleges, the Employment
3 Development Department, and the Technology, Trade, and
4 Commerce Agency.

5 (m) Adopt by regulation procedures for the conduct of panel
6 business, including the scheduling and conduct of meetings, the
7 review of proposals, the disclosure of contacts between panel
8 members and parties at interest concerning particular proposals,
9 contracts or cases before the panel or its staff, the awarding of
10 contracts, the administration of contracts, and the payment of
11 amounts due to contractors. All decisions by the panel shall be
12 made by resolution of the panel and any adverse decision shall
13 include a statement of the reason for the decision.

14 (n) Adopt regulations and procedures providing reasonable
15 confidentiality for the proprietary information of employers
16 seeking training funds from the panel if the public disclosure of
17 that information would result in an unfair competitive
18 disadvantage to the employer supplying the information. The
19 panel may not withhold information from the public regarding its
20 operations, procedures, and decisions that would otherwise be
21 subject to disclosure under the California Public Records Act
22 (Chapter 3.5 (commencing with Section 6250) of Division 7 of
23 Title 1 of the Government Code).

24 (o) Review and comment on the budget and performance of
25 any program, project, or activity funded by the panel utilizing
26 funds collected pursuant to Section 976.6.

27 SEC. 6. The Legislature finds and declares all of the
28 following:

29 (a) ~~(1)~~—As the President and Congress strive to strengthen the
30 nation's capacities in aerospace and defense in order to support
31 military and governmental response to war against terrorism and
32 to enhance homeland security, the United States Department of
33 Defense requires prime contractors to achieve a 20 percent to 30
34 percent cost reduction.

35 ~~(2)~~—

36 (b) Aerospace and defense prime contractors estimate that
37 suppliers represent more than 50 percent of the cost of the prime
38 contractor's final product.

39 ~~(3) In order for California's prime contractors to be~~
40 ~~competitive for federal aerospace and defense contract awards, a~~

~~1 plan must be developed for purposes of improving California's
2 supplies base that would require additional resources. The
3 improvement plan will impact the suppliers' entire business
4 enterprise, including its leadership and workforce skills, help
5 improve business operations, and promote rapid product delivery.~~

~~6 (c) In order for California's prime contractors to remain
7 competitive for federal aerospace and defense contract awards,
8 resources will be needed to improve California's supplier base
9 through improvements impacting the supplier's entire business
10 enterprise, including its leadership, operations, and workforce
11 skills.~~

~~12 (4)–~~

~~13 (d) According to the California Small Manufacturers
14 Association, in order for small manufacturers to achieve
15 improvements through training, the company owners and leaders
16 must learn to lead the changed organization. As more aerospace
17 and defense manufacturing is outsourced, suppliers must assume
18 additional responsibilities, including earlier and more involved
19 participation in product development, management of inventory
20 for customers, production of near-perfect quality products, and
21 steady price reductions.~~

~~22 (5) Many of California's prime contractors have trained cadres
23 of managers, supervisors, and frontline workers that could serve
24 as trainers.~~

~~25 (b) The Employment Training Panel shall initiate an Aerospace
26 and Defense Industry Supplier Improvement Pilot Project, that
27 may include, but not be limited to, proposals from California
28 aerospace and defense industry prime contractors that meet the
29 following minimum criteria:~~

~~30 (1) Utilize staff resources of one or more prime contractors to
31 train a cadre of trainers designated by owners or operators of
32 California small aerospace and defense suppliers.~~

~~33 (2) Include specified training objectives designed to, at a
34 minimum, increase contract competitiveness, achieve process
35 improvement, and narrow delivery windows.~~

~~36 (3) Contain training models to support structural changes of the
37 operations of small suppliers to meet changing needs of prime
38 contractors.~~

~~39 (e) This section shall remain in effect only until January 1,
40 2007, and as of that date is repealed.~~

1 ~~(e) It is the intent of the Legislature to request the Employment~~
2 ~~Training Panel to continue current efforts to assist aerospace and~~
3 ~~defense suppliers, through workforce training to achieve~~
4 ~~competitiveness objectives including, but not limited to, quality~~
5 ~~and process improvement, just-in-time manufacturing and product~~
6 ~~delivery, and cost reductions.~~

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